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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/437,535	11/10/99	BREED D	ATI-207

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PM92/0921

EXAMINER	
TO, T	
ART UNIT	**PAPER NUMBER**
3619	9

DATE MAILED: 09/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/437,535	BREED ET AL.	
	Examiner	Art Unit	
	Toan C To	3619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1)☒ Responsive to communication(s) filed on *11 July 2000* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-3, 7-8, 10-12, 16-22, 24-25, 28-30, 32-33, and 36-40* is/are rejected.

7)☐ Claim(s) *4-6, 9, 13-15, 23, 26-27, 31, and 34-35* is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)☐ All b)☐ Some * c)☐ None of the CERTIFIED copies of the priority documents have been:

1.☐ received.

2.☐ received in Application No. (Series Code / Serial Number) _____ .

3.☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

15)☒ Notice of References Cited (PTO-892) ✓

16)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) ✓

17)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .

18)☐ Interview Summary (PTO-413) Paper No(s). _____ .

19)☐ Notice of Informal Patent Application (PTO-152)

20)☐ Other: .

DETAILED ACTION

Acknowledgments

The objection of Information Disclosure Statement in Paper No 7 is now withdrawn. The Information Disclosure Statement, Paper No 2 has been considered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 37 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 37-38, it is unclear whether the applicant is claiming the subcombination of an arrangement or the combination of an arrangement and a vehicle. The preamble of the independent claim 1 is directed to an arrangement while the preamble of the dependent claims 37 and 38 is directed to a vehicle.

If the applicant's intent is to claim only the subcombination, the body of the claim(s) must be amended to remove any positive recitation of the combination. If the applicant intends to claim the combination, the preamble of the claim must be amended to be consistent with the language in the body of the claim.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 7-8, 10-12, 16-19, 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaji et al (U.S. 5,222,761) in view of White et al (U.S. 5,071,160).

Kaji et al discloses a vehicle having an arrangement to controlling deployment of a side air bag (4FR) which is located at a side door (2FR).

Kaji et al fails to disclose a vehicle having an arrangement with the following: a determining means having at least one receiver which is an ultrasonic transducer and mounted adjacent to the airbag module, and a processor coupled to the at least one receiver, for determining the position of at least a part of the occupant; a control circuit coupled to the determining means for controlling deployment of the airbag.

White et al discloses a vehicle having an arrangement with the following: a determining means (24) having at least one receiver which is an ultrasonic transducer (26) and mounted adjacent to the airbag module, and a processor (36) coupled to the at least one receiver, for determining the position of at least a part of the occupant; a control circuit (12) coupled to the determining means for controlling deployment of the airbag (16) in order to control the airbag module by determining the position of the

occupant within a vehicle and to provide means for responsive to the position sensing means for adjusting the response of the safety restraint to accommodate the position that the occupant has assumed at the instant the airbag is deployed or actuated.

Regarding claims 7-8, and 16-17, it would have been an obvious design choice for one having ordinary skill in the art to mount the at least one receiver in a door of the vehicle or adjacent to the air bag module in order to determine the present of occupant in the seat.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a vehicle having an arrangement of Kaji et al as taught by White et al to include the following: a determining means having at least one receiver which is an ultrasonic transducer and mounted adjacent to the airbag module, and a processor coupled to the at least one receiver, for determining the position of at least a part of the occupant; a control circuit coupled to the determining means for controlling deployment of the airbag in order to control the airbag module by determining the position of the occupant within a vehicle and to provide means for responsive to the position sensing means for adjusting the response of the safety restraint to accommodate the position that the occupant has assumed at the instant the airbag is deployed or actuated.

Claim Rejections - 35 USC §§ 102 & 103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 20-22, 24-25, 28-30, 32-33 rejected under 35 U.S.C. 102(b) as anticipated by Kaji et al or, in the alternative, under 35 U.S.C 103(a) as obvious over White et al. White disclose a vehicle having an arrangement comprising the following steps: determining the position of at least a part of the occupant; controlling deployment of the side air bag; receiving wave, generating a signal; wherein a step of receiving wave having a step of arranging an ultrasonic transducer; and mounting the transducer capable of receiving wave in a door.

5. It is examiner's position that Kaji et al anticipate the claimed method because the method is inherently disclosed. The rational for this inherency is that the prior art device, in its normal and usual operation, would necessarily perform the claimed method. See MPEP 2112.02. (see In re King, 801, F2d 1324, 1326, 231 USPQ 136, 138, Fed Cir 1986).

However, even if not anticipated, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify White et al to include the claimed method. Because the prior art discloses all the structure necessary

to perform the claimed functions, one of ordinary skill in the art would find the claimed method to be an obvious step in light of the disclosed structure.

Response to Arguments

6. Applicant's arguments filed July 11, 2000 have been fully considered but they are not persuasive. The prior arts still read on the claimed limitations.

In response to applicant's argument that "the subject matter of at least claims 1, 10, 20, 28 and 36 is disclosed in the earlier applications" it is untrue, because the claims 10, 20, 28 and 36 clearly recited the side air bag which has not been found in any of the earlier applications. Therefore, the side air bag is considered to be a new matter for the instant application.

Allowable Subject Matter

7. Claims 4-6, 9, 13-15, 23, 26-27, 31, 34-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

TTo

September 01, 2000

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600